



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.563 of 2016

and

C.M.P. (md) .No.6622 of 2016

Tamil Nadu State Transport Corporation Limited,
Through its Managing Director,
Office at Number-2, Trivandrum Road,
Vannarapettai,
Tirunelveli. ... Appellant/Respondent

Vs.

Subramanian ... Respondent/Petitioner

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 05.06.2015 made in M.C.O.P.No.1185 of 2014, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran

For Respondent : Mr.V.Sasikumar

JUDGMENT

Heard the learned counsel on either side.

2.The Transport Corporation has filed this appeal questioning the impugned award on the ground of quantum. The claimant suffered amputation of right leg. He was a lorry driver. Therefore, this is a case of functional disability. Therefore, the Tribunal rightly adopted the multiplier method. However on three counts, the quantum of compensation awarded by the Tribunal will have to be revisited.

3.Firstly, 50% future prospects has been awarded. The Hon'ble Supreme Court held in **National Insurance Company Limited Vs. Pranay Sethi and Ors.** dated 31.10.2017, that only 40% future prospects can be given for those in the age group



of 30 to 40. Secondly, a sum of Rs.1,00,000/- has been awarded for medical treatment. In this case, the claimant took treatment in Government Hospital, he has not furnished any proof regarding any expenditure. A sum of Rs.2,00,000/- has been awarded for purchase of artificial leg. Again there is no proof forthcoming in support of the said aspect. Instead of 7.5% interest, 9% interest was awarded.

4. Therefore, the learned counsel for the appellant contended that the quantum of compensation will have to be reduced. I find force in the said submission. The pecuniary loss will have to be reduced from Rs.15,72,480/- to Rs.14,67,648/-. Since the claimant has not furnished any proof to show that he incurred any expenditure for his treatment, I am of the view that a sum of Rs.1,00,000/- will have to be deducted. Similarly, for purchase of artificial leg, a sum of Rs.2,00,000/- was awarded. This has to be reduced to Rs.1,00,000/-. Therefore the compensation awarded by the Tribunal is reduced from Rs.20,22,480/- to Rs.17,17,648/-.

5. The award dated 05.06.2015 made in M.C.O.P.No.1185 of 2014, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tirunelveli, is modified accordingly.

6. The appellant is directed to deposit the entire compensation amount of Rs.17,17,648/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal. The appellant is permitted to withdraw the balance amount, if any.

8. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal/
Special Sub Court, Tirunelveli.



2. The Record Keeper,
Vernacular Section,
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+ 1 cc TO Mr.P.Prabhakaran , Advocate in SR No. 88364
+ 1 cc TO Mr.V.Sasikumar , Advocate in SR No. 88370

tsg

AE/JC/SAR3/15.03.2018/3P/6C

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